

THE POLITY OF THE SCOTTISH CHURCH 1560-1600¹

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I

THE "Reformation Parliament" of August 1560 abrogated the authority of the pope, forbade the celebration of mass and acknowledged the reformed Confession of Faith, but it did not legislate on ecclesiastical organisation and finance. The Book of Discipline, in which the reformers had laid down their programme for church government and for the disposal of the ecclesiastical revenues, did not receive statutory recognition. Subsequently it was arranged that all holders of benefices should retain two-thirds of their revenues for life, the reformed church being entitled to an undefined proportion of the remaining third.

As a result of the failure of parliament to deal with questions of polity and endowment, and of the compromise represented by the "Assumption of Thirds," the entire structure of the old regime remained intact. The bishops continued to control their lands and teinds, to enjoy their places in parliament and council and, intermittently, to exercise their consistorial jurisdiction.² Not only so, but until 1567 it was both law and practice that only by episcopal collation could admission normally be obtained to any benefice.³ Thus, while there were not two *churches* (because the old organisation had, as such, no spiritual functions), there were two distinct ecclesiastical structures; the only link between them was the personal and fortuitous one that a number of beneficed persons (including some bishops) served in the reformed church and so were members of both structures. The persistence of the old organisation of the benefices was later to have its effect on the policy of the reformed church and to

¹ This paper was the subject of conversations in which, over a period of many months, the writer was associated with Professors Burleigh and Torrance and Doctors G. S. Gunn, Sherwin Bailey, Montgomery Watt and Norman Cockburn. The version now presented is the result of very full discussion and careful consideration. Documentation has been confined to the salient points; fuller information may be obtained from papers on "The Scottish Episcopate at the Reformation" (*Eng. Hist. Rev.*, vol. lx) and "Sources for the Study of Scottish Ecclesiastical Organisation and Personnel, 1560-1600" (*Bulletin of the Institute of Historical Research*, vol. xix).

² See chapter on "The Church Courts," to be published by the Stair Society in its *Introduction to Scottish Legal History*.

³ The abundant evidence for this is to be found principally in the MS. Register of the Privy Seal. The portion of the register covering the period 1558-1567 is at present being prepared for publication.

suggest an alternative to the Book of Discipline, which had proposed to subvert the ancient structure.

In the organisation of the reformed church, supreme power lay with the general assembly. The origins and early history of that organ require investigation, for it has perhaps been too readily assumed that its initial character was the same as in later times, namely a body consisting primarily of ministers and elders representative of regional or local units. Originally the assembly did not consist primarily of ministers and elders, but was plainly based on the conception of the three estates (clergy, barons and burgh commissioners) which at that time formed the Scottish parliament. Any godly baron seems to have been welcome as an individual, while the burgh commissioners were chosen by town councils; these lay members, while no doubt they were often elders (and are sometimes designated as such), did not attend as elected representatives of congregations. It is instructive to contrast the practice in the synods, which from the beginning consisted of the ministers of the area, each with an elder or deacon. The explanation of the early composition and character of the assembly is perhaps to be found in its development from the "Great Council" of the protestant lords and their associates, which had governed Scotland for a time in 1559-60; or it may be viewed as the magistracy exercising its ecclesiastical functions. It is highly misleading to express any view which would suggest that the reformers thought of church and state as separate entities; but it is perhaps permissible to suggest that in examining the original form of the assembly we should realise its apparent association with the state at least as much as with the church. This point came to be of some importance when the future of the assembly was under consideration in the 1570s, as we shall see.

Under the general assembly, and responsible to it, was the regional organisation of the church, on a diocesan basis, in the hands of superintendents, conforming bishops, commissioners and visitors—officials who all performed very much the same functions. The four offices were, indeed, distinct in respect at least of emoluments¹ and of length of tenure,² but

¹ The authority for stipends is the *Accounts of the collectors of thirds of benefices* (Scot. Hist. Soc.). Superintendents usually received some £700 a year in the Scots money of the time; a bishop in any case enjoyed two-thirds of the revenues of his see, and if he served in the reformed church he was allowed to retain his third also; a commissioner normally received only £100 or £200 annually, in addition to his parochial stipend.

² The superintendent and the bishop held office *ad vitam aut culpam*; the commissioner or visitor was usually given a commission for a specific task or for a year at a time, but in practice a commissioner was very often reappointed year after year for a long period. In practice, the commissioner or visitor usually held a parochial charge, the superintendent or bishop did not; but it is not altogether clear that this constituted a further distinction between the offices.

contemporary usage did not always distinguish them carefully, and it may suffice to use the term "superintendent" here. Broadly speaking, the vital administrative and judicial functions which are normally exercised by a bishop (and in a presbyterian system by a presbytery) were performed by the superintendent; he differed from the minister *quoad jurisdictionem*,¹ but had not the full spiritual powers of a medieval or Anglican bishop. It must be constantly kept in mind that there was no other organ to carry out administrative duties, and that the credit for the organisation of the reformed church in its early years belongs to the superintendents.

The extensive powers of the superintendent were believed to be based on scriptural authority. How far the Book of Discipline itself implies this rests on the interpretation of its use of the notion of "expediency" (necessarily within the framework of its general introductory remark that it is founded on the Word of God). But the following two statements are clear expressions of belief in a *jure divino* superintendency: "Without the care of superintendents, neither can the kirk[s] be suddenly erected, neither can they be retained in discipline and unity of doctrine. . . Of Christ Jesus and His apostles we have command and example to appoint men to such charges";² and "To take this power [of admitting ministers] from the bishop or superintendent is to take away the office of bishop, that no bishop be in the kirk; which were to alter and abolish the order which God hath appointed in His kirk."³ No trace has been discovered at this period of the opposite view, that superiority in jurisdiction is contrary to scripture.

The superintendent's functions were as follows:—

(1) *Admission of clergy*. Emphasis was on admission to a pastoral charge, and such admission involved ordination, although in the rite there was no imposition of hands. In examination of candidates, and in admission, the leading part was taken by the superintendent,⁴ and his functions in this respect were put on a statutory basis in 1567,⁵ from which

¹ Whether there was any difference *quoad ordinem* is controversial. The order for the admission of superintendents was the same as that for ministers; but on the other hand that order was used for the promotion to a superintendentship of a man already in ministerial orders, which suggests that the commissioning of a superintendent in his superior sphere of duty was regarded as a rite akin to ordination.

² *Register of the Kirk Session of St. Andrews*, i, 75. This passage would seem to be conclusive against the view that the superintendent was regarded as of value only in the initial organisation of the church.

³ Calderwood, iii, 158. Cf. p. 219 *infra*.

⁴ For the necessity of admission by a superintendent, see *Reg. K. S. St. Andrews*, i, 75; *B. U. K.*, i, 15, 16, 27.

⁵ *A.P.S.*, iii, 23 c. 7.

date they were always recognised in presentations.¹ It would be very difficult to prove that a superintendent necessarily associated ministers with him in making admissions ; and the evidence of numerous presentations, collations and deeds of admission strongly suggests the contrary.

(2) *Supervision of clergy.* The superintendent, on his visitations, inspected the work and life of the parochial clergy. So the Book of Discipline had intended,² and the general assembly of June 1562 decreed that "all ministers shall be subject to their superintendents in all lawful admonitions."³ The superintendent's superior dignity is amply shown by the fact that he was styled "my lord" and "the lord superintendent."

(3) *Suspension and deprivation.* Visitation implied correction, leading ultimately to suspension or deprivation. From the *Register of the kirk session of St. Andrews*⁴ it would seem that the superintendent had a *sole* power to suspend ministers and readers, and perhaps to deprive readers, but that deprivation certainly of a minister—and perhaps even of a reader—required action by the superintendent and his court. Such a distinction between suspension (which may be a matter of urgency) and deprivation (where delay for consideration is advantageous) is reasonable, and perhaps usual. It seems that after 1573, when a superintendent was given a *sole* power to deprive in cases of refusal to accept the Confession of Faith,⁵ deprivation for other causes still required a process in his court. Power to translate ministers lay formally with the superintendent and his synod,⁶ but it seems that superintendents may have exercised a *sole* power of translation.⁷

(4) *Judicial functions.* With the kirk session of a chief town (not necessarily *the* chief town) of his diocese, the superintendent constituted a court which issued decrees and edicts in matrimonial cases, especially adherence, and until at least 1564 gave judgment in divorce suits. This court tended to inherit the consistorial jurisdiction of the old episcopal courts, as well as acting with the superintendent in some of his supervisory functions. A full analysis of the evidence in the *Register of the kirk session of St. Andrews* (which incorporates the records of the court of the superintendent of Fife) shows no clear distinction between cases dealt with by the superintendent by himself and those dealt with by him with the advice of his court. Summonses and the like commonly went out in the name of

¹ The evidence is the series of crown presentations recorded in the Register of Presentations and Register of the Privy Seal.

² Laing's *Knox*, ii, 204-5 ; Dickinson, ii, 293.

³ *B. U. K.*, i, 15.

⁴ Pp. 172, 175-9, 186-90, 242, 283.

⁵ *A.P.S.*, iii, 72 c. 3.

⁶ *B. U. K.*, i, 29.

⁷ *Ibid.*, 50, 62.

the superintendent alone. The evidence on the whole supports Spottiswoode's contention that sentence of excommunication could not be pronounced by a minister and kirk session without the consent of the superintendent.¹

The superintendent's synod was unimportant. It could, however, hear appeals against his lesser court, and (by the legislation of 1567) against his refusal to give collation. It would appear that in this period there was no synod where there was no superintendent.²

At a local level the organ of government was the kirk session. At this period it was not necessarily confined to a single congregation, for in large towns the ministers and elders of the various churches formed a single consistory, calling itself a General Kirk—as distinct from the Universal Kirk of Scotland and the Particular Kirk or individual congregation. The same thing may have happened in some rural areas; but the position there remains obscure, because although in the 1560s there were ministers in only about a quarter of the parishes, yet the readers do not seem to have been formally subject to the supervision of adjoining ministers. It is, at any rate, plain that even in the 1590s kirk sessions had not been established everywhere,³ and it can have been only in the early seventeenth century, under the episcopalian regime, that they became universal.

The early kirk session, like the early general assembly, should not be too readily equated with the body of the same name familiar in later times. The Book of Discipline was emphatic that elders should be elected annually,⁴ and this appears to have been common practice. The doctrine, "Once an elder, always an elder," does not date from 1560; it is explicit in the second Book of Discipline. Deacons did not have the management of ecclesiastical property, as both Books of Discipline envisaged; they cannot at first have done more than look after the alms for the poor.

Attempts⁵ to interpret this first constitution of the Scottish reformed church in terms of the presbyterian polity familiar in later times must plainly be made only with great caution. The first Book of Discipline

¹ *B. U. K.*, i, 43, 74-5; Spottiswoode, ii, 167.

² *B. U. K.*, i, 111. ³ *Ibid.*, iii, 865.

⁴ Dickinson's *Knox*, ii, 310; Laing's *Knox*, ii, 234.

⁵ This paragraph did not form part of the original paper, but was inserted in view of comments made and questions asked when the paper was read to the Society.

mentions neither synod¹ nor presbytery, and even as to the general assembly it is wonderfully vague ; it is true that in practice a general assembly, synods and kirk sessions were in operation, but in each case with not unimportant differences from the later organs which went by these names. On the other hand, the office of superintendent represented principles at variance with those usually associated with presbyterianism.² The contrast is the more striking in that the French reformed church had already drawn up a constitution based on the characteristic presbyterian features of parity of ministers and administration by a hierarchy of courts. It is possible to argue that the Scots must have consciously rejected this precedent, and some have detected in their system of government elements which suggest parallels rather with the Lutheran churches.³

II

The revolution of 1567 gave to the reformed church, for the first time, full recognition and establishment. It is somewhat remarkable that in the hour of victory there was no serious attempt to revert to the financial policy of the Book of Discipline and its proposed subversion of the structure of the benefices. Instead, the superintendents were given statutory authority to admit men to benefices, and the claim of the reformed clergy to succeed to benefices on their vacancy was officially recognised.⁴ The practice now adopted was plainly that the reformed church should enter into possession, and take over the existing ecclesiastical fabric ; so that the two structures which had existed separately since 1560 should now merge or coalesce. The question of the *greater* benefices, however, did not become acute until 1571, when the primate was hanged.

In 1572, by the so-called "Concordat of Leith," it was arranged that ministers should succeed to the greater benefices. This was simply an extension of the practice adopted in 1567—that the reformed church

¹ Except possibly as the body which could censure a superintendent.

² There is no contemporary support for the view, assiduously cultivated later, that the superintendentship was meant to be merely a temporary device. The passage in the Book of Discipline sometimes quoted to support this is concerned only to stress the special value of the office in an emergency ; and to argue that because the office was "most expedient for this time" it was therefore inexpedient at other times is somewhat hazardous. In exactly the same way, exercises were said to be "most necessary for the Church of God this day." Again, the resemblance between the superintendents and the *ad hoc* commissioners occasionally appointed by general assemblies in later periods is so remote that a comparison between the two, can appeal only to propagandists.

³ E.g., Janet G. MacGregor, *The Scottish Presbyterian Polity* ; G. Donaldson, " 'The Example of Denmark' in the Scottish Reformation " (*Scot. Hist. Rev.*, xxvii).

⁴ *A.P.S.*, iii, 23 c. 7.

should enter into possession of the benefices of the existing ecclesiastical structure ; indeed, since the statute of 1567 had been of general application, it is perhaps wrong to use even the word "extension." Such an arrangement, whereby ministers should now be appointed to greater, as well as lesser, benefices, had obvious advantages for the civil constitution and for compliance with legality and tradition.

The settlement of 1572 represented no innovation in respect of either (a) church government, or (b) finance : (a) The new bishops had only the powers of superintendents, they were subject to the general assembly *in spiritualibus*, and were not to act in admission of clergy without the advice of ministers. They fitted into the existing structure of church government without difficulty, except that it was necessary to adjust matters between bishops and superintendents where boundaries overlapped. In short, the government of the church was unchanged—it was still by superintendents, bishops and commissioners, under the general assembly, as it had been since 1560.

Nomination of the bishops lay with the civil power (as the Book of Discipline had proposed, initially, for the superintendents) ; the formal "election" which followed was not by the whole clergy of the diocese but by "chapters" of ministers. Chapters had, in law, the right to refuse an unfit nominee ; and the examination of the qualifications of a bishop was no mere formality.¹ The form for admission of a bishop was the same as that hitherto used for superintendents, but there were two changes which may be significant—imposition of hands took the place of mere "taking by the hand," and, while the mandate to "consecrate" specified that there should be a minimum of two consecrators, two of the accounts of consecrations which have been preserved show that there were three.² While conformity to traditional and legal practice was undoubtedly a strong motive here, the procedure might be held to indicate the emergence of some notions of succession different from those held or implied in 1560.

(b) The custom of accompanying episcopal appointments with substantial reservations of fruits to crown nominees was no novelty, but had been the regular practice in Scotland for a generation, and was conspicuous in contemporary England also. There is actually far more evidence that the pre-Reformation bishops were "Tulchans," in the sense that they made simoniacal pactions, than that the bishops of the 1570s were "Tulchans" ; though it is amply proved that the latter, after appointment, did dilapidate the benefice by the granting of feus and tacks. "Tulchanism," while a manifest abuse, was no innovation.

¹ J. Melville, *Diary*, p. 32.

² Calderwood, iii, 206-7 ; Spalding Club, *Miscellany* ii, 46-7.

The practice of calling the bishops of the 1570s "Tulchans" has tended to obscure their real ecclesiastical significance. Equally, although by Anglican standards they were not properly consecrated, it is highly misleading to dismiss them as "titulars."

As this settlement of 1572 introduced no novel principles, it is difficult to detect any ground on which serious objections could have been advanced; and examination of the evidence as to the state of opinion does in fact point to general acquiescence. Some of that evidence has, however, been misinterpreted and used to suggest that the "Concordat" encountered serious opposition, and it requires to be examined in relation to the course of events in 1571-2.

Archbishop Hamilton had been hanged in April. In September, the government appointed archbishops to St. Andrews and Glasgow simply by letters patent and—so far as is known—without consultation with any ecclesiastical opinion. The bishops so appointed were not only to be entitled to their revenues and their seats in parliament, but were also, according to the preambles to their deeds of appointment,¹ to have "the charge and oversight of the inferior ministers." This action raised a storm, mainly because of its high-handed nature, but partly because of the choice of the aged and infirm John Douglas for the extensive and scattered diocese of St. Andrews and partly because it was suspected that simony was involved. Statesmanlike, reasoned criticism was formulated in an important letter from John Erskine of Dun to the regent, dated 10 November, 1571.

Erskine began by repeating the contention of the general assembly that as all benefices deriving revenues from teinds involved a spiritual office, therefore they must be held by men whose qualifications had been approved by the church. The church had committed to bishops or superintendents the admission of men to benefices, and Erskine adduced scriptural evidence that it was the function of bishops and superintendents to examine candidates for office, to admit them, and to supervise their work. "To take this power from the bishop or superintendent is to take away the office of bishop, that no bishop be in the kirk; which were to alter and abolish the order which God hath appointed in his kirk." The secular power, therefore, must not usurp the spiritual authority by appointing either bishops or pastors, but must confine itself to presenting candidates for examination and admission by the church or its agents. It follows that, although the offices of bishop and superintendent are identical, the superintendent must hold his ground against such bishops

¹ Register of Presentations to Benefices, i, 61.

as had been intruded by the state in September. So far as episcopal revenues were concerned, Erskine maintained that the ideal solution lay in the distribution of the spirituality of the appropriated churches among the parishes from which it had derived. If this is impracticable, the church is prepared for a bargain: provided that admission to bishoprics is controlled by the church, no objection will be raised to the diversion to the crown, at least for a time, of such proportion of the revenues as is not required for stipend. "The kirk contendeth not for worldly profit."¹

The regent replied to Erskine, and they evidently agreed to the summoning of a convention, which met at Leith in January 1571/2 and approved a settlement along the lines suggested by Erskine in his letter. The appointments already made in September were ignored, and the *formulae* agreed on by the convention were used to make appointments to the archbishoprics *de novo*. It is most important to distinguish between views expressed with reference to the government's initial action and those expressed after the achievement of the agreed settlement at Leith.

The "convention" of Leith appears to have been so styled because it was outwith the ordinary course of meetings of the general assembly (which course it denied it interrupted).² The idea of the "convention" was borrowed from the civil constitution, where the convention differed from a parliament in being summoned with less formality and for a particular purpose. But the convention of Leith claimed the "strength, force and effect" of a general assembly;³ the assembly of August 1572 referred to it as a general assembly;⁴ David Fergusson, preaching before it, reckoned it a general assembly;⁵ and the historian Row counted it as the twenty-fourth general assembly.⁶ There were present three superintendents, three commissioners, some thirty ministers and a number of laymen, in all over sixty.⁷ If the number seems small, it must be remembered that we have few contemporary standards by which to judge it and that it met at a time of tumult and civil war.

Of individual ministers, the participation of Winram and Spottiswoode in the institution of the new archbishop of St. Andrews proves their acquiescence, and the latter's action accords with the account of his views given by his son.⁸ The third "consecrator" was David Lindsay, who also recorded his favourable opinion of "the buik devysit in Leith, quhairin the order of the election of byschops with mony other gud

¹ Calderwood, iii, 156-62.

² *B. U. K.*, i, 204.

³ *Ibid.*

⁴ *Ibid.*, 246.

⁵ Fergusson, *Sermons* (Bannatyne Club, 1860).

⁶ Row, *History*, p. 45.

⁷ *B. U. K.*, i, 203-4.

⁸ Spottiswoode, *History*, ii, 337.

articles is continit.”¹ David Fergusson’s sermon to the convention sufficiently indicates his agreement with its objects, while Erskine of Dun, as already mentioned, was a main architect of the settlement.

John Knox’s works have been searched assiduously, but fruitlessly, for a condemnation of the principle of superiority. Nor is it true to say that he had no occasion to define his attitude to episcopacy, for he several times spoke his mind freely about the shortcomings of the Church of England, and even criticised the practical operation of its government, without denouncing the office of a diocesan bishop. His own refusal of an English bishopric had been due to “the foresight of trouble to come,”² that is, a foreboding that the happy days of Edward VI would not last; and his caution may have saved him from the fate of Ridley, Latimer and Hooper. In 1571, Knox was indignant at the initial action of the government in appointing archbishops without consulting the kirk, and at the choice of John Douglas for St. Andrews. He also entered a general protest that the Book of Discipline represented a better order.³ Yet, in spite of this, and in spite of Beza’s warning against the *pseudoepiscopi*,⁴ Knox took a favourable view of the settlement arrived at in January 1572, and gave the new arrangements an emphatic blessing, urging that “all bishoprics vacant may be presented, and qualified persons nominated thereunto, . . . according to the order taken in Leith,” and referring to “all bishops admitted by the order of the kirk now received.”⁵

The conclusion must be that, while the church’s attitude to the government’s initial action indicated a divergence between church and state—a divergence solved (or at least shelved) by concessions from the government’s side—it is clearly erroneous to assign to this juncture the outbreak of the great controversy between episcopal government and its opponents. Yet, while there was no controversy, a careful reading of the observations of the general assembly suggests that there was a certain amount of uneasiness and a fear that the policy now adopted might after all involve the abandonment of principles which had been preserved since 1560. The assembly of 1572, while it accepted the titles of archbishop, archdeacon, dean and so forth, indicated that they were obnoxious to some as savouring of popery, and suggested that their use, at least for ecclesiastical purposes, should be avoided;⁶ there was, of course, no objection to the scriptural term “bishop.” Knox’s comments indicate

¹ *Cal. S. P. Scot.*, iv, No. 519.

² Lorimer, *John Knox and the Church of England*, p. 191.

³ J. Melville, *Diary*, p. 31; Bannatyne, *Memorials*, pp. 228, 257; Knox, *Works*, vi, 605.

⁴ Knox, *Works*, vi, 613-5; Beza, *Epistolae*, No. 79.

⁵ *B. U. K.*, i, 247-9. ⁶ *Ibid.*, i, 246.

criticism of the readoption of the old, inefficient diocesan boundaries which had been superseded when superintendents were appointed ; and there was objection to chapter election, which proved to be no safeguard against improper appointments.¹ The arrangement was, in any case, accepted only as an *interim*, and no doubt it would have been generally agreed that the church had still " no settled polity."²

III

Yet, whatever the uneasiness, and whatever the abuses as the scheme worked out in practice, controversy did not emerge until 1575, after Andrew Melville's arrival. Melville's programme was at variance with certain features which had prevailed in the Scottish ecclesiastical polity since 1560 : (1) It was now for the first time held that episcopacy, even of the very moderate variety existing in Scotland, was unlawful. This was contrary to the opinions, quoted earlier, on the *jus divinum* of the office of bishop or superintendent, and contrary to the general acquiescence in the settlement of 1572. (2) Every bishop, as well as every minister, must now have his " particular charge " (defined as the charge of a single congregation). This meant that, although a minister might still be given a temporary commission to visit certain " bounds," he must (unlike the bishop and, in general, the superintendent) have a congregational charge in addition. (3) As a corollary to the proposed suppression of episcopacy and the accompanying emphasis on parity of function, there comes the demand for the erection of a new body, the presbytery,³ to take over the functions hitherto exercised by superintendents and bishops and to operate in a new territorial unit smaller than the diocese.

Melville's work was the *conversion* of a body of Scots to his opinions. His own nephew and close associate admits that before Mr. Andrew's arrival " many knew not yet the corruption and unlawfulness of that invention of man " [episcopacy] and that several ministers were " informed more thoroughly by Mr. Andrew of the unlawfulness of bishops, and the right manner of governing of the kirk by presbyteries."⁴ That there was

¹ *B. U. K.*, 288 ; Calderwood, iii, 345-6.

² Wodrow Soc., *Miscellany*, i, 289-90.

³ There had from 1560 been exercises, in which some have seen a foreshadowing of the presbytery. The *clerical* element of a presbytery was indeed present in the exercise, and, although initially without any place as an organ of government, the exercise must have been the occasion for the discussion of other matters besides doctrine (cf. *B. U. K.*, 265). Yet in 1574 and 1576 there are indications that it was difficult to maintain interest in the exercises (*Ibid.*, 321, 366). With the triumph of Melvillianism, however, there are traces of the assumption of administrative functions by exercises and of their transformation into presbyteries (Wodrow Soc., *Miscellany*, i, 407-8 ; *B. U. K.*, ii, 439 ; Calderwood, iii, 474).

⁴ J. Melville, *Diary*, 32, 48, 52 ; cf. 61, 83, 437.

genuine, serious argument between the Melvillians and a more conservative element is clearly shown in the letter which Lord Chancellor Glamis wrote to Theodore Beza in 1576.¹ Thomas McCrie went out of his way to stress that episcopal government was widely acceptable until Melville's campaign commenced and that his hero wrought a "change of sentiment."² It may be, however, that Melville's success has been somewhat exaggerated, for few, if any, of the older men—the veterans of 1560—embraced his tenets with enthusiasm, and some of them from time to time appear in opposition to him.

It has been something of a tradition among Presbyterians to assume that Melville's views derived logically from principles implied in 1560; but on the other side it may be argued that the principles of 1560 were retained by Melville's opponents. It is possible that if Melville had found the polity of the first Book of Discipline in full and unmodified operation he would never have compiled the second; but against this hypothesis must be set the fact that those who had themselves compiled the first accepted modifications of their programme which Melville rejected. Melville could not have subscribed the statements quoted above in support of the *jus divinum* of the office of bishop or superintendent; while opinions indistinguishable from those statements were put forward by his opponents.³ The difference remains between a polity in which supervision is normally in the hands of individuals and one in which it is normally in the hands of committees or courts of ministers.

Division of opinion extended to the question of the supreme authority in the church. There were those who held that the general assembly had been a temporary expedient, under a Roman catholic sovereign, and that it should pass away under the rule of a "godly prince" who would be "supreme governor of the realm . . . in the conservation and purgation of religion."⁴ The assembly's defenders at first based their case on the need to take precautions against the possibility of a future hostile sovereign; at what stage it was frankly demanded that the assembly should continue irrespective of the character of the sovereign's religion does not appear, but this was, of course, the attitude adopted in the second Book of Discipline. Equally, examination is required of the stages by which the assembly became primarily a body of ministers and elders, present as representatives of presbyteries.⁵

¹ Scot. Hist. Soc., *Miscellany*, viii. ² McCrie, *Andrew Melville*, edn. 1899, 64.

³ Calderwood, iii, 429, iv, 53-4, 499-501. ⁴ *Ibid.*, iii, 184.

⁵ In 1581 it was proposed that the general assembly should consist of persons nominated by the synods (Calderwood, iii, 520). In 1597 it was ordained that three ministers and one "baron" should go to the assembly from each presbytery, along with two representatives from Edinburgh and one from each of the other royal burghs (*B. U. K.*, iii, 947, cf. 906, 935).

IV

The general assembly reached a condemnation of episcopal government in 1580.¹ Concurrently with the drive against the bishops there was a movement for the erection of the presbyteries to which the episcopal functions were to be transferred. That the two movements were complementary was clearly expressed when, in 1578, the general assembly stated that bishops were not to usurp the powers of presbyteries;² though the choice of words was peculiar and it would have been more accurate to state that the functions which, in the view of the assembly, belonged of right to presbyteries, were now to be transferred to those organs from the bishops who had hitherto exercised them.

In 1581 a complete scheme of presbyteries, for the whole country, was drawn up,³ but this was a mere programme, and the assembly took a more practicable step by appointing the erection of thirteen model presbyteries at places in the Lowlands.⁴ Yet the powers of the bishops rested to some extent on statute law, which it was not in the power of the assembly to abrogate. The "presbyterian experiment" being conducted by the assembly was, therefore, strictly illegal, and its new organs of church government were in the eyes of the law merely "pretended presbyteries."⁵ Between 1581 and 1584 the position was that while presbyteries were operating in some places (e.g., Haddington, Dalkeith, Aberdeen, Perth, Glasgow and Linlithgow), the government continued in the main to act on the legally recognised forms, whereby admission to benefices was still in the hands of bishops, superintendents and commissioners—and this although the administration of the country was for a time in the hands of the Ruthven Raiders, who favoured the presbyterians. Very rarely indeed was a presentation to a parish directed to a presbytery, and only one instance is on record of a presbytery exercising the power of deprivation. The presbyterians themselves did not assert that presbyterian government was in full operation in this period, for in 1584 they claimed only that their "whole form of church government . . . was growing and increasing . . . and did grow and increase until it came to a reasonable perfection."⁶

The reaction of 1584 (the "Black Acts") was directed mainly at "that form lately invented in this land, called the presbytery," and expressly preserved the kirk sessions.⁷ In general, the forms which had

¹ Calderwood, iii, 469-70.

² *Ibid.*, 432.

³ *Ibid.*, 521-2.

⁴ *Ibid.*, 523.

⁵ *A.P.S.*, iii, 312 c. 31.

⁶ Calderwood, iv, 75.

⁷ Calderwood, iv, 259; *St. Andrews Kirk Session Register*, ii, 529.

never been legally abrogated were preserved ; but the bishops and commissioners were now under the crown (instead of the assembly) and the ministers more definitely than before under the bishops. While the Melvillians went into exile, this settlement proved acceptable to older men like Craig and Erskine of Dun, who evidently did not consider that episcopal government with crown supremacy was inappropriate in the conditions now prevailing.

Another political change brought the Melvillians back from exile. In 1586 a compromise was agreed on whereby bishops were to be nominated by the king but answerable to the general assembly, and to have each his particular kirk but to act in visitation, examination and collation ; the erection of presbyteries was to be resumed, but with constant moderators, some of whom would be bishops.¹ In practice, however, the assembly showed little readiness to accept any kind of *modus vivendi* with the bishops, its intransigence made the scheme almost unworkable, and episcopacy was clearly going to become a mere facade. Then, in 1587, came the Act of Annexation which deprived the bishops of their revenues, except their castles, "yards" and teinds.² These two developments—the failure of the compromise and the Act of Annexation—involved the temporary eclipse of episcopal government.

From the end of 1586 a gradual transition towards presbyterian government is apparent. The proportion of crown presentations which refer to a presbytery rose from a quarter in 1588 to a third in 1589 and to more than a half in 1590. In 1592 a presentation directed to a bishop, while not unknown, is as rare as one directed to a presbytery had been ten years earlier. In the same period, presbyteries began to take a hand in adjudging benefices vacant, and latterly to exercise the power of deprivation. In the series of Accounts of the Collector General of Thirds, we find that 1590 is the first year in which the term "presbytery" is used to denote a district.

Thus the act of parliament of 1592 which for the first time recognised presbyterian government³ was a logical step in view of developments since 1586, perhaps a mere recognition of a *fait accompli*. Yet the kirk had only a makeshift, patchwork constitution. Commissioners, even bishops, had still to act in the more remote parts of the country, where true presbyterian government cannot have existed until after 1638. It is an error to imagine that in 1592 there was a complete and pure presbyterian system and that only the king's preference for episcopacy prevented its

¹ Calderwood, iv, 491-4, 558-9, 571 *et seq.*

² I.e., the teinds of parsonages appropriated to their sees.

³ *A.P.S.*, iii, 541.

peaceful continuance. On the one hand, even kirk sessions were not yet universal,¹ and in 1596 the general assembly expressly appointed commissioners to act where presbyteries were not established.² On the other, the act of 1592 had not demolished the ancient structure of the benefices, including cathedral and diocesan dignities and even the bishoprics themselves; and the persistence of this structure might mould developments in the future as it had done in the past.

Moreover, many questions remained unanswered, many problems unsolved. One was the ultimate fate of the lands taken from the bishops in 1587; another was the matter of increased provision for the parish ministers. There was also the destination of the episcopal titles and the properties remaining to the bishops after 1587. While many sees were vacant, others were still held by men exercising some ecclesiastical functions, if only as ministers. Who were to succeed on vacancy—ministers or laymen? Besides, what was to become of the cathedral and diocesan dignities, for which there was no place in a presbyterian system? And what about the clerical estate in parliament? If the bishoprics fell into abeyance, the spiritual estate so-called would consist only of the commendators, who were laymen, leaving the kirk unrepresented. Could some reform be effected so that the spiritual estate would really represent the kirk, and if so, how?

To these problems the king offered his solution—the restoration of episcopal government. Admittedly, it was not the only possible solution, but no other was seriously entertained. And it was the last-mentioned problem—representation in parliament—that opened the way to the next expedient, that of “parliamentary bishops.” The problem of ecclesiastical representation in parliament had exercised men’s minds intermittently since 1581,³ and in the last years of the century it was agreed that vacant sees should be filled by ministers, who would sit in parliament, but have no episcopal jurisdiction or even ecclesiastical status.⁴ This step proved to be the first in a series which culminated in the general assembly’s acceptance of restored episcopal jurisdiction in 1610 and its parliamentary ratification in 1612.

¹ *B.U.K.*, iii, 865.

² *Ibid.*, iii, 862-3.

³ J. Melville, *Diary*, 118; Calderwood, iv, 261, v, 431; *B.U.K.*, ii, 787

⁴ *A.P.S.*, iv, 130; *B.U.K.*, iii, 945-6, 954-5.